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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: **Joint Petition for Rule Making**

Dear Ms. Salas:

On behalf of Davis Television Fairmont, LLC and Marri Broadcasting, L.P., I am transmitting herewith an original and four copies of a Joint Petition for Rule Making seeking to amend the Television Table of Allotments to specify Channel 55 in lieu of Channel 66, at Fairmont, West Virginia.

Should there be any questions concerning this matter, please contact the undersigned.

Very truly yours,

Dennis P. Corbett

Dennis P. Corbett

RGG:rg
Enclosures
cc (w/encl.): John E. Fiorini, III, Esq.

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.606(b)	)	RM _____
Television Table of Allotments	)	
(Fairmont, West Virginia)	)	

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

JOINT PETITION FOR RULE MAKING

Davis Television Fairmont, LLC and Marri Broadcasting, L.P. (the "Petitioners"), who are all of the mutually exclusive applicants for a construction permit for a new television station at Fairmont, West Virginia, on Channel 66, pursuant to the provisions of Section 1.401 of the Commission's Rules and pursuant to the Commission's Public Notice, DA 99-2605, released November 22, 1999 ("November 22 Notice") as extended by Public Notice, DA 00-536, released March 9, 2000 ("March 9 Notice"), hereby request that the Commission institute a rule making proceeding to amend Section 73.606(b), the Television Table of Allotments, by substituting Channel 55 in lieu of Channel 66.

This Petition is being filed in response to the Commission's opening of a filing window (the "Filing Window"), on November 22, 1999, within which pending NTSC applicants, such as Petitioners, for new full-service NTSC television stations on Channels 60-69 have been given an opportunity to seek substitute allotments in light of the Commission's reallocation of

Channels 60-69 for public safety use and commercial fixed, mobile and broadcasting services. See November 22 Notice. The closing date for that window was subsequently extended from March 17, 2000 to July 15, 2000. See March 9 Notice.[1/]

The Engineering Statement of Bernard R. Segal, P.E. (the "Engineering Statement"), attached hereto as Exhibit A, establishes that Petitioners' proposal is in full accord with all applicable coverage and allocation criteria set forth in the Commission's rules. Channel 55 may be allotted for NTSC use without creating any new interference to any NTSC or digital television ("DTV") facilities. See Engineering Statement at 3-4. The proposed allotment satisfies all Commission criteria with respect to NTSC and DTV station protection. See Engineering Statement at 4. As required by the Commission's rules, all of Fairmont is included within the calculated Principal City Grade Contour of Channel 55, as proposed. See Engineering Statement at 3.

If this Petition is granted, Petitioners will timely file amendments to their applications for Channel 66 specifying operation on Channel 55 and, if granted, will adhere to all applicable Commission standards for the construction and operation of the facility.

1/ Because July 15, 2000 falls on a Saturday, the Filing Window closes on July 17, 2000. See 47 C.F.R. § 1.4(j).

THEREFORE, for the reasons set forth above, a rule making proceeding should be instituted proposing the amendment of Section 73.606(b) of the Commission's Rules to substitute Channel 55 for Channel 66 at Fairmont in the Television Table of Allotments.

Respectfully submitted,

DAVIS TELEVISION FAIRMONT, LLC

By: Dennis P. Corbett

Dennis P. Corbett
Ross G. Greenberg

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202-429-8970

Its Attorneys

MARRI BROADCASTING, L.P.

By: John E. Fiorini DPC

John E. Fiorini III, Esq.

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Washington, D.C. 20005-3317
(202) 408-7159

July 17, 2000

Its Attorneys

140158

EXHIBIT A

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION FAIRMONT, LLC
FAIRMONT, WEST VIRGINIA

The instant Engineering Statement has been prepared on behalf of Davis Television Fairmont, LLC (hereafter, Davis) the applicant in BPCT-19960920IY for a new NTSC television facility at Fairmont, West Virginia. The application specifies operation on Ch. 66- with peak visual effective radiated power of 1510 kW and antenna radiation center height above average terrain of 263 meters. Channel 66- is no longer available for new NTSC station use.

The FCC has provided an opportunity for the submission of a Petition for Rulemaking that specifies a channel below Ch. 60 that meets various criteria as set forth in a Public Notice released November 22, 1999. The Notice was later revised to reflect a deadline filing date of July 15, 2000. The instant Engineering Statement provides support for amendment of the NTSC Table of Allotments, Section 73.606, to specify Ch. 55+ at Fairmont, West Virginia, in lieu of Ch. 66-.

The proposed Ch. 55+ allotment is for operation from a different site than is currently specified in the pending application. At the new site, all separation requirements of Section 73.610 of the Rules are fulfilled. The geographic coordinates for the new site are: 39° 18' 02" North Latitude; 80° 20' 37" West Longitude. A directional antenna is proposed with maximum peak visual effective radiated power of 1500 kW. The antenna radiation center height above average terrain will be 243 meters. The radiation center height above mean sea level will be 604 meters.

The particulars for the directional antenna which will be used are provided in Exhibits No. 1-4. Exhibit No. 1 is the azimuthal pattern for the antenna and Exhibit No. 2 is a tabulation of relative field and effective radiated power data for the antenna. Exhibit No. 3 is the vertical characteristic for the antenna and Exhibit No. 4 is a tabulation of data for the pattern of Exhibit No. 3.

Exhibit No. 5 is a map showing the calculated Principal City Grade, Grade A, and Grade B contours for the proposed operation. As required by the Rules, all of Fairmont is included within the calculated Principal City Grade contour.

Exhibit No. 6 lists those allotments and stations of allocation interest for the proposed Ch. 55+ allotment. Subpart A demonstrates compliance with the minimum separation requirements of Section 73.610 of the Rules. Subpart B identifies DTV allotments and stations which merit consideration and Subpart C identifies LPTV stations which are eligible for Class A licensing and are close enough to Fairmont to merit consideration.

Exhibit No. 7 provides detailed studies demonstrating that the proposal will not create new interference to any NTSC or DTV full service facility. The studies of Exhibit No. 7 were performed using a FCC matched computer analysis taking into account all allocation factors. A computer using an Alpha processor was employed in conjunction with the FCC's FLR software. For each station studied, the reference information from Appendix B of the *Memorandum Opinion and Order on Reconsideration of the Sixth Report and*

Order in *MM Docket Number 87-268* is listed in Exhibit No. 7 for comparison with the results obtained independently using the Alpha processor with the FCC's FLR software. The independently determined calculation results are in excellent agreement with the FCC's Appendix B results.

For this initial study, the Ch. 55, Fairmont, proposal was excluded. For those allotments for which applications have been submitted which exceed the allotment parameters, a second study was performed with the application facilities substituted for the allotment facilities, again without taking into account the effect of the proposed Ch. 55 Fairmont allotment. The studies then were repeated with the proposed Ch. 55 Fairmont allotment included, and a determination was made if any new interference was caused. When the FCC's permissive rounding is taken into account, no new interference is caused to any NTSC or DTV facility of interest. As demonstrated in Exhibit No. 7, the proposed allotment satisfies all FCC criteria with respect to NTSC and DTV station protection.

The only eligible Class A LPTV station of interest is W56DX, Wheeling, West Virginia. Station W56DX is licensed for operation on Ch. 62 and a construction permit has been issued for operation on Ch. 56. However, the adopted rules proscribe licensing of a Class A station on an out of core channel. Hence, station W56DX cannot achieve licensed Class A status on either Ch. 56 or Ch. 62 and protection of W56DX on either channel is not required.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 10, 2000.

Bernard R. Segal, P.E.

Bernard R. Segal, P.E.

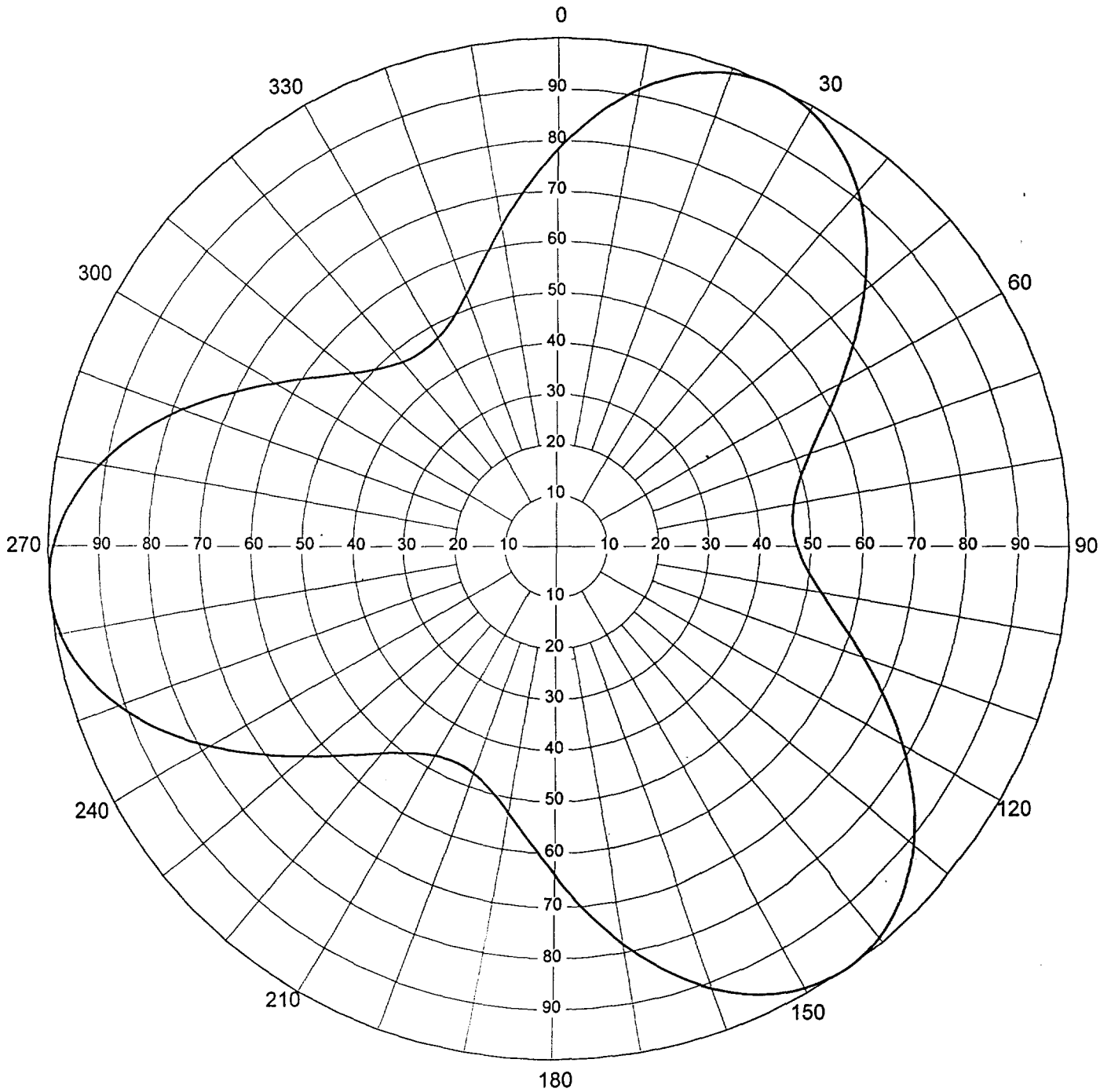
Exhibit No. 1

Dielectric

Date	**28 Jun 2000**
Call Letters	Channel **55**
Location	**FAIRMONT, WV**
Customer	
Antenna Type	**TFU-30DSC T180**

AZIMUTH PATTERN

RMS Gain at Main Lobe	**1.80 (2.55 dB)**	Frequency	**719 MHz**
Calculated / Measured	**Calculated**	Drawing #	**T180**



Remarks:

Exhibit No. 2

Dielectric

Date 28 Jun 2000
Call Letters Channel 55
Location FAIRMONT, WV
Customer
Antenna Type TFU-30DSC T180

TABULATION OF AZIMUTH PATTERN

Azimuth Pattern Drawing # T180

Angle	Field	ERP (kW)	ERP (dBk)
0	0.782	2446	33.88
10	0.913	3334	35.23
20	0.990	3920	35.93
30	0.990	3920	35.93
40	0.913	3334	35.23
50	0.782	2446	33.88
60	0.640	1638	32.14
70	0.529	1119	30.49
80	0.473	895	29.52
90	0.473	895	29.52
100	0.529	1119	30.49
110	0.640	1638	32.14
120	0.782	2446	33.88
130	0.913	3334	35.23
140	0.990	3920	35.93
150	0.990	3920	35.93
160	0.913	3334	35.23
170	0.782	2446	33.88
180	0.640	1638	32.14
190	0.529	1119	30.49
200	0.473	895	29.52
210	0.473	895	29.52
220	0.529	1119	30.49
230	0.640	1638	32.14
240	0.782	2446	33.88
250	0.913	3334	35.23
260	0.990	3920	35.93
270	0.990	3920	35.93
280	0.913	3334	35.23
290	0.782	2446	33.88
300	0.640	1638	32.14
310	0.529	1119	30.49
320	0.473	895	29.52
330	0.473	895	29.52
340	0.529	1119	30.49
350	0.640	1638	32.14

Maxima

Angle	Field	ERP (kW)	ERP (dBk)
25	1.000	4000	36.02
145	1.000	4000	36.02
265	1.000	4000	36.02

Minima

Angle	Field	ERP (kW)	ERP (dBk)
85	0.467	872	29.41
205	0.467	872	29.41
325	0.467	872	29.41

Remarks:

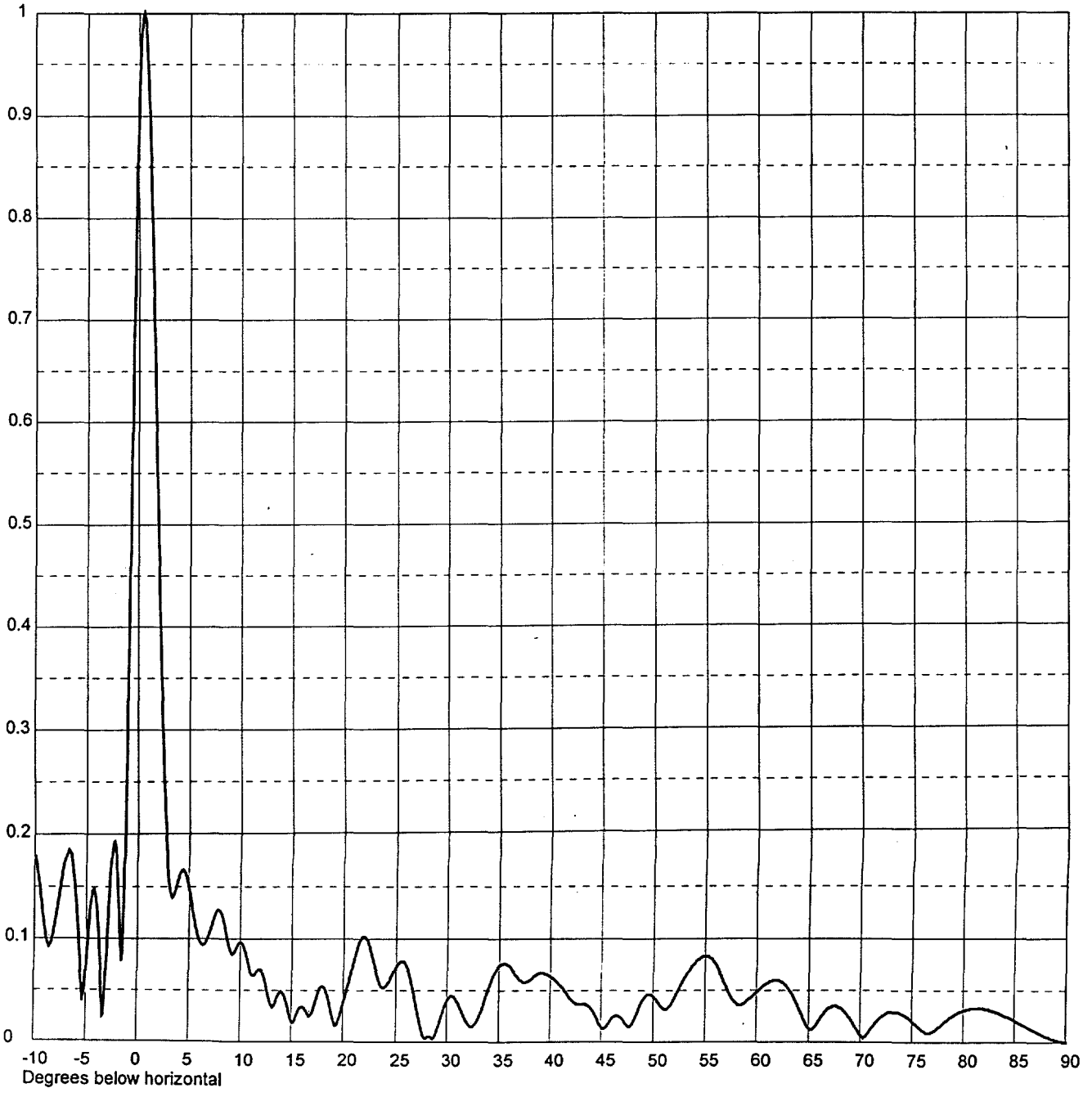
Exhibit No. 3

Dielectric

Date	28 Jun 2000		
Call Letters		Channel	55
Location	FAIRMONT, WV		
Customer			
Antenna Type	TFU-30DSC T180		

ELEVATION PATTERN

RMS Gain at Main Lobe	25.5 (14.07 dB)	Beam Tilt	0.50 Degrees
RMS Gain at Horizontal	21.0 (13.22 dB)	Frequency	719.00 MHz
Calculated / Measured	Calculated	Drawing #	30Q25505-90



Remarks:

Exhibit No. 4

Dielectric

Date 28 Jun 2000
Call Letters Channel 55
Location FAIRMONT, WV
Customer
Antenna Type TFU-30DSC T180

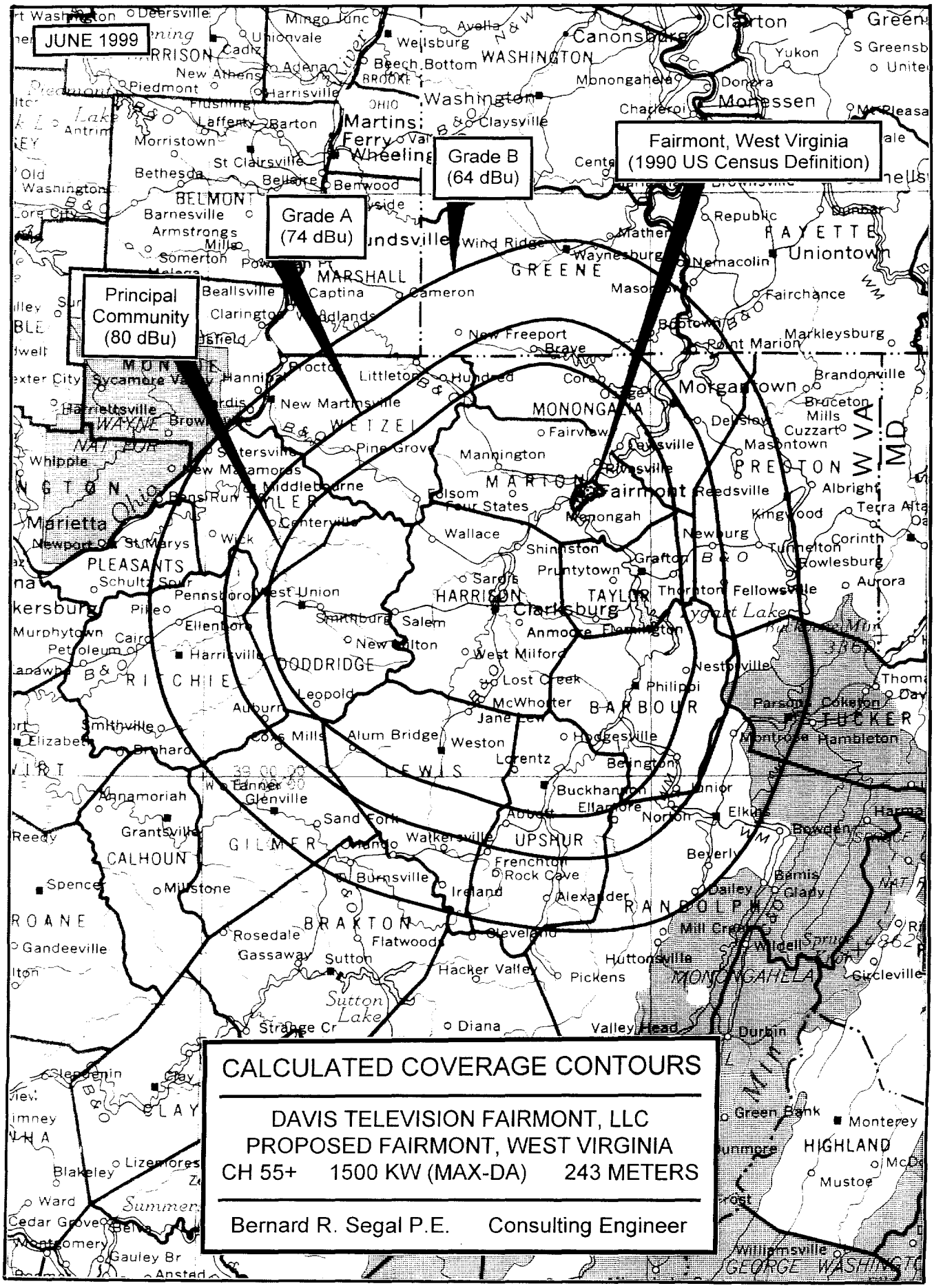
TABULATION OF ELEVATION PATTERN

Elevation Pattern Drawing # 30Q25505-90

Angle	Field	Angle	Field	Angle	Field	Angle	Field	Angle	Field	Angle	Field
-10.0	0.183	2.4	0.313	10.6	0.083	30.5	0.045	51.0	0.032	71.5	0.019
-9.5	0.153	2.6	0.248	10.8	0.075	31.0	0.039	51.5	0.034	72.0	0.024
-9.0	0.110	2.8	0.199	11.0	0.068	31.5	0.029	52.0	0.042	72.5	0.028
-8.5	0.094	3.0	0.165	11.5	0.066	32.0	0.019	52.5	0.052	73.0	0.029
-8.0	0.116	3.2	0.146	12.0	0.070	32.5	0.015	53.0	0.062	73.5	0.029
-7.5	0.148	3.4	0.140	12.5	0.057	33.0	0.022	53.5	0.070	74.0	0.027
-7.0	0.177	3.6	0.143	13.0	0.037	33.5	0.035	54.0	0.076	74.5	0.024
-6.5	0.182	3.8	0.150	13.5	0.040	34.0	0.051	54.5	0.081	75.0	0.020
-6.0	0.143	4.0	0.157	14.0	0.049	34.5	0.065	55.0	0.083	75.5	0.016
-5.5	0.063	4.2	0.163	14.5	0.039	35.0	0.074	55.5	0.081	76.0	0.011
-5.0	0.076	4.4	0.166	15.0	0.020	35.5	0.076	56.0	0.076	76.5	0.009
-4.5	0.140	4.6	0.164	15.5	0.027	36.0	0.073	56.5	0.066	77.0	0.010
-4.0	0.132	4.8	0.159	16.0	0.034	36.5	0.066	57.0	0.055	77.5	0.014
-3.5	0.043	5.0	0.149	16.5	0.028	37.0	0.060	57.5	0.044	78.0	0.018
-3.0	0.096	5.2	0.138	17.0	0.029	37.5	0.058	58.0	0.038	78.5	0.022
-2.8	0.141	5.4	0.125	17.5	0.047	38.0	0.060	58.5	0.036	79.0	0.026
-2.6	0.175	5.6	0.113	18.0	0.054	38.5	0.065	59.0	0.039	79.5	0.029
-2.4	0.192	5.8	0.104	18.5	0.043	39.0	0.067	59.5	0.043	80.0	0.031
-2.2	0.188	6.0	0.098	19.0	0.022	39.5	0.066	60.0	0.048	80.5	0.032
-2.0	0.163	6.2	0.095	19.5	0.020	40.0	0.064	60.5	0.053	81.0	0.033
-1.8	0.119	6.4	0.095	20.0	0.038	40.5	0.060	61.0	0.057	81.5	0.033
-1.6	0.079	6.6	0.097	20.5	0.057	41.0	0.055	61.5	0.059	82.0	0.033
-1.4	0.118	6.8	0.101	21.0	0.079	41.5	0.049	62.0	0.060	82.5	0.032
-1.2	0.219	7.0	0.107	21.5	0.097	42.0	0.042	62.5	0.058	83.0	0.030
-1.0	0.342	7.2	0.113	22.0	0.102	42.5	0.038	63.0	0.052	83.5	0.028
-0.8	0.472	7.4	0.120	22.5	0.092	43.0	0.037	63.5	0.044	84.0	0.026
-0.6	0.601	7.6	0.125	23.0	0.072	43.5	0.037	64.0	0.033	84.5	0.024
-0.4	0.721	7.8	0.128	23.5	0.055	44.0	0.033	64.5	0.022	85.0	0.021
-0.2	0.825	8.0	0.127	24.0	0.054	44.5	0.024	65.0	0.013	85.5	0.018
0.0	0.908	8.2	0.123	24.5	0.063	45.0	0.014	65.5	0.014	86.0	0.016
0.2	0.966	8.4	0.115	25.0	0.073	45.5	0.015	66.0	0.021	86.5	0.013
0.4	0.996	8.6	0.105	25.5	0.078	46.0	0.023	66.5	0.029	87.0	0.011
0.6	0.997	8.8	0.096	26.0	0.073	46.5	0.026	67.0	0.033	87.5	0.008
0.8	0.971	9.0	0.089	26.5	0.057	47.0	0.022	67.5	0.035	88.0	0.006
1.0	0.921	9.2	0.085	27.0	0.033	47.5	0.016	68.0	0.033	88.5	0.004
1.2	0.851	9.4	0.087	27.5	0.011	48.0	0.019	68.5	0.029	89.0	0.002
1.4	0.766	9.6	0.091	28.0	0.004	48.5	0.031	69.0	0.023	89.5	0.001
1.6	0.672	9.8	0.095	28.5	0.004	49.0	0.041	69.5	0.015	90.0	0.000
1.8	0.575	10.0	0.096	29.0	0.011	49.5	0.046	70.0	0.007		
2.0	0.479	10.2	0.095	29.5	0.027	50.0	0.044	70.5	0.005		
2.2	0.391	10.4	0.090	30.0	0.040	50.5	0.038	71.0	0.012		

Remarks:

Exhibit No. 5


JUNE 1999
Fairmont, West Virginia
(1990 US Census Definition)
Grade B
(64 dBu)
Grade A
(74 dBu)
Principal
Community
(80 dBu)
CALCULATED COVERAGE CONTOURS
DAVIS TELEVISION FAIRMONT, LLC
PROPOSED FAIRMONT, WEST VIRGINIA
CH 55+ 1500 KW (MAX-DA) 243 METERS
Bernard R. Segal P.E. Consulting Engineer
KILOMETERS
20 0 20 40

ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION FAIRMONT, LLC
FAIRMONT, WEST VIRGINIA

Allocation Studies for Proposed
Fairmont Channel 55+ Allotment

Site Coordinates: 39° 18' 02" N. Lat./80° 20' 37" W. Long.

A: NTSC Separation Compliance Study

Ch. Relation-ship	Station	Geographic Coordinates (N. Lat./W. Long.)	Distance Required Minimum (km)	Distance Actual (km)
n-15 (40)	WPCB-TV, Greensburg, PA Lic. and C.P.	40° 23' 34" 79° 46' 54"	119.9	130.5
n-14 (41)	Allotment, Wheeling, WV	(To be deleted)		
n-8 (47)	None sufficiently close for concern	—	—	—
n-7 (48)	None sufficiently close for concern	—	—	—
n-5 (50)	None sufficiently close for concern	—	—	—
n-4 (51)	None sufficiently close for concern	—	—	—
n-3 (52)	None sufficiently close for concern	—	—	—
n-2 (53)	None sufficiently close for concern	—	—	—
n-1 (54)	None sufficiently close for concern	—	—	—
n-0 (55)	WBNX-TV, Akron, OH	41° 23' 02" 81° 41' 44"	248.6	258.3
n+1 (56)	None sufficiently close for concern	—	—	—
n+2 (57)	None sufficiently close for concern	—	—	—
n+3 (58)	None sufficiently close for concern	—	—	—
n+4 (59)	None sufficiently close for concern	—	—	—
n+5 (60)	None sufficiently close for concern	—	—	—
n+7 (62)	Allotment, Steubenville, OH	(To be deleted)		
n+8 (63)	None sufficiently close for concern	—	—	—
n+14 (69)	None sufficiently close for concern	—	—	—

B: DTV Allotments, Stations and Applications Meriting Consideration

Ch. Relation-ship	Station/Location/Facilities	Site Coordinates (N. Lat./W. Long.)	Distance (km)
n-1 (54)	Allotment, Oakland, MD Ch. 54, 50 kW (MAX-DA), 216 m	39° 24' 14" 79° 17' 37"	91.2
	Appl., WGPT-DT, Oakland, MD Ch. 54, 100 kW (MAX-DA), 291 m	39° 24' 14" 79° 17' 37"	91.2
n-0 (55)	Allotment, Hagerstown, MD Ch. 55, 67.7 kW (MAX-DA), 375 m	39° 39' 35" 77° 57' 57"	208.4
	Appl., WHAG-DT, Hagerstown, MD Ch. 55, 1000 kW (MAX-DA), 358 m	39° 39' 35" 77° 57' 57"	208.4
n+1 (56)	None sufficiently close for concern	—	—

C: Eligible Class A LPTV Stations and Applications Meriting Consideration

Ch. Relation-ship	Station/Location/Facilities	Site Coordinates (N. Lat./W. Long.)	Distance (km)
n-15 (40)	None sufficiently close for concern	—	—
n-14 (41)	None sufficiently close for concern	—	—
n-1 (54)	None sufficiently close for concern	—	—
n-0 (55)	None sufficiently close for concern	—	—
n+1 (56)	C.P., W56DX, Wheeling, WV Ch. 56, 12.1 kW (MAX-DA); RCAMSL: 457 m	40° 03' 41" 80° 45' 08"	91.5
n+7 (62)	Lic., W56DX, Wheeling, WV Ch. 62, 12.1 kW (MAX-DA), RCAMSL: 700 m	40° 03' 41" 80° 45' 08"	91.5

n = Ch. 55

Notes: 1) No Class A license will be issued for a station that is outside the Ch. 2-51 core. Therefore, protection of station W56DX, either on Ch. 56 or on Ch. 62, is unnecessary. 2) No eligible Class A LPTV's with ERP's of 50 kW or more are located less than 32 kilometers from the proposed Fairmont, Ch. 55 site and are on channels that are ±2, ±3 or ±4 channels removed from Ch. 55.

ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION FAIRMONT, LLC
FAIRMONT, WEST VIRGINIA

NTSC and DTV Impact Studies for
Proposed Fairmont NTSC Allotment
Ch. 55+, 1500 kW (MAX-DA), 243 m
Site Coordinates: 39° 18' 02" N. Lat./80° 20' 37" W. Long.
RCAMSL: 604 meters

NTSC STUDY

Ch. Relation-ship	Potentially Affected Desired NTSC Station	Appendix B Data: Current Svc. Pop. (Thous.)	Appendix B Data: Allotted DTV Interf. Pop. (%)	Independent Calculations: Current Svc. Pop. (Thous.)	Independent Calculations: Pop. within Grade B Not Affected by Terrain (Thous.)	Independent Calculations: Allotted DTV Interf. Pop. (Thous.)	Independent Calculations: Allotted DTV Interf. Pop. (%)	Independent Calculations: New Interf. from Prop. Fairmont (Thous.)	Independent Calculations: New Interf. from Prop. Fairmont (%)
n-0 (55)	WBNX-TV, Akron, Ohio Ch. 55, 5000 kW, 356 m	3,478	1.7	3,478	3,517	58.5	1.7	0.6	0.01*

*Rounds to 0.0% and so meets the condition for no new interference.

DTV STUDY

Ch. Relation-ship	Potentially Affected Desired DTV Allotment or Station	Appendix B Data: Base-line Pop. (Thous.)	Appendix B Data: DTV Svc. (Thous.)	Independent Calculations: Noise-free Svc. Not Affected by Terrain (Thous.)	Independent Calculations: Base-line Pop. (Thous.)	Independent Calculations: DTV Svc. (Thous.)	Independent Calculations: New Interf. from Prop. Fairmont (Thous.)	Independent Calculations: New Interf. from Prop. Fairmont (%)
n-0 (55)	WHAG-DT, Hagerstown, MD							
	Allotment: Ch. 55, 67.7 kW (MAX-DA), 375 m	652	652	707	653	653	0	0
	Appl: Ch. 55, 1000 kW (MAX-DA), 358 m	---	---	1,457	1,245	1,245	0.6	0.048*
n-1 (54)	WGPT-DT, Oakland, MD							
	Allotment: Ch. 54, 50 kW (MAX-DA), 216 m	109	109	113	109	109	0.0	0
	Appl: Ch. 54, 100 kW (MAX-DA), 291 m	---	---	217	150	150	0	0

*Rounds to 0% and so meets the condition for no new interference.

n = Ch. 55

Exhibit No. 7